

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Archie G. Edwards, et ux)
Dist. 4, Map 130, Control Map 130, Parcel 21.01,) Dickson County
S.I. 000)
Residential Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued at \$7,214 per acre as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$69,400	\$ -0-	\$69,400	\$17,350

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 26, 2007 in Charlotte, Tennessee. In attendance at the hearing were Archie Edwards, the appellant, and Gail Wren, Dickson County Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 9.62 acre tract located on Garton Road in Burns, Tennessee.

The taxpayer contended that subject property should be valued at \$3,000 per acre or \$28,800. In support of this position, the taxpayer argued that the 2007 countywide reappraisal program caused the appraisal of subject property to increase excessively. The taxpayer asserted that subject property should be appraised at \$3,000 per acre given the per acre prices for lots sold at auction at 999 Furnace Hollow Road and Eno Road. According to the taxpayer, tracts that were cleared, cleaned and utilized as hay fields brought \$8,000 per acre. Tracts that were not cleared, cleaned and utilized for hay or farming sold for \$4,000 per acre.

The assessor contended that subject property should remain valued at \$69,400. In support of this position, three comparable sales were introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$69,400 based upon the presumption of correctness attaching to the decision of the Dickson County Board of Equalization.

Since the taxpayer is appealing from the determination of the Dickson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization

Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject tract as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

The administrative judge finds that the auction sale relied on by the taxpayer cannot provide a basis of valuation for any of several reasons. First, the administrative judge finds that the State Board of Equalization has historically rejected auction sales as good indicators of market value because of the limited exposure of the property to the market. See, e.g. *William J. Groom* (Davidson Co., Tax Year 1991). Second, the administrative judge finds that the subject property cannot meaningfully be compared to the comparables absent additional evidence about the comparables. Third, it is unclear how the taxpayer arrived at his opinion of value since the sales were not adjusted. Fourth, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$69,400	\$ -0-	\$69,400	\$17,350

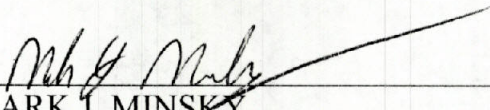
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 4th day of December, 2007.


 MARK J. MINSKY
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Archie G. Edwards
 Gail Wren, Assessor of Property